

## § 1000.146

the reallocation of funds with the exception of construction projects.

### **§ 1000.146 Can a Tribe/Consortium negotiate an AFA with a non-BIA bureau for which the performance period exceeds one year?**

Yes, subject to the terms of the AFA, a Tribe/Consortium and a non-BIA bureau may agree to provide for the performance under the AFA to extend beyond the fiscal year. However, the Department may not obligate funds in excess and advance of available appropriations.

### **§ 1000.147 Can the terms and conditions in a non-BIA AFA be amended during the year it is in effect?**

Yes, terms and conditions in a non-BIA AFA may be amended during the year it is in effect as agreed to by both the Tribe/Consortium and the Secretary.

### **§ 1000.148 What happens if an AFA expires before the effective date of the successor AFA?**

If the effective date of a successor AFA is not on or before the expiration of the current AFA, subject to terms mutually agreed upon by the Tribe/Consortium and the Department at the time the current AFA was negotiated or in a subsequent amendment, the Tribe/Consortium may continue to carry out the program authorized under the AFA to the extent resources permit. During this extension period, the current AFA shall remain in effect, including coverage of the Tribe/Consortium under the Federal Tort Claims Act (FTCA) 28 U.S.C. 2671-2680 (1994); and the Tribe/Consortium may use any funds remaining under the AFA, savings from other programs or Tribal funds to carry out the program. Nothing in this section authorizes an AFA to be continued beyond the completion of the program authorized under the AFA or the amended AFA. This section also does not entitle a Tribe/Consortium to receive, nor does it prevent a Tribe from receiving, additional funding under any successor AFA. The successor AFA must provide funding to the Tribe/Consortium at a level necessary for the Tribe/Consortium to perform the programs, functions, services, and activities (PFSA) or portions

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thereof for the full period they were or will be performed.

### **Subpart G—Negotiation Process for Annual Funding Agreements**

#### **PURPOSE**

#### **§ 1000.160 What is the purpose of this subpart?**

This subpart provides the process and timelines for negotiating a self-governance compact with the Department and an AFA with any bureau.

(a) For a newly selected or currently participating Tribe/Consortium negotiating an initial AFA with any bureau, see §§ 1000.173 through 1000.179.

(b) For a participating Tribe/Consortium negotiating a successor AFA with any bureau, see §§ 1000.180 through 1000.182.

#### **NEGOTIATING A SELF-GOVERNANCE COMPACT**

#### **§ 1000.161 What is a self-governance compact?**

A self-governance compact is an executed document that affirms the government-to-government relationship between a self-governance Tribe and the United States. The compact differs from an AFA in that parts of the compact apply to all bureaus within the Department of the Interior rather than a single bureau.

#### **§ 1000.162 What is included in a self-governance compact?**

A model format for self-governance compacts appears in appendix A. A self-governance compact should generally include the following:

- (a) The authority and purpose;
- (b) Terms, provisions, and conditions of the compact;
- (c) Obligations of the Tribe and the United States; and
- (d) Other provisions.

#### **§ 1000.163 Can a Tribe/Consortium negotiate other terms and conditions not contained in the model compact?**

Yes, the Secretary and a self-governance Tribe/Consortium may negotiate into the model compact contained in appendix A additional terms relating